

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 06-0065
Sales and Use Tax
For The Tax Years 2004 through August, 2005

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ISSUES

I. Sales and Use Tax – Bad Debt Deduction

Authority: IC § 6-8.1-5-1(a); IC § 6-2.5-6-9(a).

The Taxpayer protests the denial of bad debt deductions.

II. Sales and Use Tax – Manual Credits

Authority: IC § 6-2.5-6-7.

The Taxpayer protests the disallowance of manual credits.

STATEMENT OF FACTS

The Taxpayer is in the communications business. The Indiana Department of Revenue (Department) audited the Taxpayer for the years 1999-2003. That Audit resulted in the determination that the Taxpayer had a credit balance in its sales tax accrual account. The Taxpayer chose not to request a refund of that credit. Rather, the Taxpayer carried the credit forward. The Department then performed an Investigation of the Taxpayer's sales tax accrual account for the tax years 2004 through August 2005. This Investigation revealed that the credit in the sales tax accrual account was fully absorbed in June 2005. The Taxpayer owed additional sales tax as of August 30, 2005. The Department assessed this additional sales tax, interest, and penalty against the Taxpayer. The Taxpayer protested the assessment. A hearing was held. This Letter of Findings results.

I. Sales and Use Tax – Bad Debt Deduction

DISCUSSION

During the Investigation, the Taxpayer claimed that it had additional bad debt deductions attributable to the years 2001 and 2002. The Department denied the additional deductions. The Taxpayer protested the denial.

Tax assessments are presumed to be valid. IC § 6-8.1-5-1(b). The Taxpayer bears the burden of proving that any assessment is incorrect. *Id.*

Retail merchants must periodically calculate the proper amount of sales tax to remit to the State. In this calculation, retail merchants were authorized during the tax years to take a deduction for uncollectible receivables pursuant to IC § 6-2.5-6-9(a) as follows:

In determining the amount of state gross retail and use taxes which a retail merchant must remit under section 7 of this chapter, the retail merchant shall, subject to subsections (c) and (d), deduct from the retail merchant's gross retail income from retail transactions made during a particular reporting period, an amount equal to the retail merchant's receivables which:

- (1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;
- (2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and
- (3) were written off as an uncollectible debt for federal tax purposes during the particular reporting period.

To qualify for the bad debt deduction, the Taxpayer must demonstrate that it met three tests for each deduction. The Taxpayer must show that it previously reported and paid the sales tax on the transaction, that it did not collect the tax, and that it did not write off the receivable for federal income tax purposes. To demonstrate that it met these requirements, the Taxpayer provided computer runs of sales to the Indiana locations of a variety of companies during the years 2001 and 2002. The Taxpayer claimed that it didn't collect on these sales and therefore wrote them off for federal purposes. The Taxpayer also provided copies of federal income tax returns indicating that it wrote off uncollectible debts for federal purposes. The Taxpayer argued that the amount of bad debts reported on the federal returns was more than sufficient to cover the Indiana bad debts.

At the hearing, the Taxpayer submitted essentially the same documentation the Department reviewed at the time of the investigation. The submitted documentation did not detail each of the transactions. The documentation did not indicate how the transactions tied into the statement of federal uncollectible debt write-offs. The Taxpayer did not sustain its burden of proving that it was entitled to the additional bad debt deductions pursuant to IC § 6-2.5-6-9(a).

FINDING

The Taxpayer's protest is respectfully denied.

II. Sales and Use Tax – Manual Credits

DISCUSSION

During 2003, the Taxpayer remitted sales taxes to the State pursuant to the provisions of IC § 6-2.5-6-7. In its protest, the Taxpayer contended that it was entitled to a reduction of the amount of sales tax due based upon manual credits processed in 2004. These credits were processed manually to override the computer system in 2004 and 2005 to compensate for sales tax incorrectly collected on 2003 purchases by two customers. These customers had provided the Taxpayer with Indiana exemption certificates. The Taxpayer contended that since these amounts were manually credited, the credits were not reflected in the automated data that the Taxpayer presented to the Department during the investigation process.

During the Investigation, the Department requested copies of original invoices, copies of exemption certificates, and a copy of the accrual account to show the sales tax was remitted to the Department from the original invoice. The Taxpayer submitted exemption certificates signed by the two customers, "Invoice Detail Reports" indicating that the customers purchased items and paid sales tax, and a computer run of manual credits given to the two taxpayers during the years 2004 and 2005. The Taxpayer did not provide original invoices or information on the accrual account to show that the sales tax had actually been remitted to the Department in 2003. The Taxpayer did not supply the requested documentation during either the investigation or hearing process. The Taxpayer did not sustain its burden of proving that it was entitled to a reduction of its sales tax assessment based on manual credits given during 2004 and 2005.

FINDING

The Taxpayer's protest is respectfully denied.